



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Donald E. Clay

File: B-242558.2

Date: December 18, 1991

DECISION

The Bureau of Reclamation (Bureau), United States Department of the Interior (DOI), has forwarded the request of Mr. Donald E. Clay, an employee of the agency, for reconsideration of our decision, Donald E. Clay, B-242558, June 19, 1991. We held that Mr. Clay, who transferred from Grand Junction, Colorado, to Brasilia, Brazil, and was transferred back to Grand Junction upon completion of his overseas assignment, is not entitled to reimbursement of expenses incurred in the sale of his former Grand Junction residence since both the old and new official stations are not located within the United States or other specified areas.

The main thrust of Mr. Clay's request for reconsideration is that, as part of the reorganization of the Bureau of Reclamation, the Planning Division in which he was employed, was abolished. Mr. Clay states that after his position was abolished, he was involuntarily directed by the Bureau to transfer to Brazil. Mr. Clay contends that the statute and the implementing regulations, 5 U.S.C. § 5724a(a)(4)(A) (1988) and 41 C.F.R. § 302-6.1(a) (1989), which preclude reimbursement of real estate expenses unless both the old and new duty stations are located within the United States or other named locations, apply to voluntary, not involuntary actions on the part of the employee. He feels that since he was required to transfer to Brazil and return to Grand Junction, the statute and regulations are not applicable to his claim and, therefore, he should be reimbursed for the expenses he incurred in the sale of his Grand Junction residence.

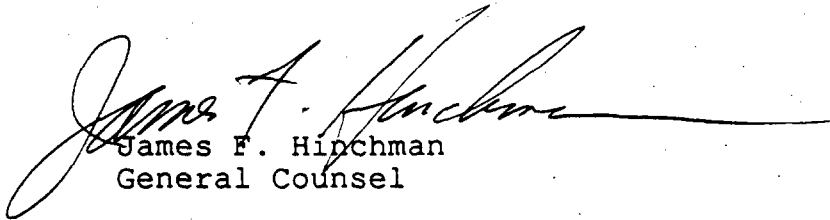
We stated in 47 Comp. Gen. 93,95 (1967), that the previously cited statute and regulations literally require that both the old and the new duty stations be located within the United States or the other named areas before the right to reimbursement of real estate expenses arises. No exception is made to allow reimbursement when the transfer to an overseas post or the transfer back to the United

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States is involuntary on the part of the employee. In fact, in 54 Comp. Gen. 1006 (1975), reimbursement was disallowed even though the employee was separated due to a reduction in force while stationed in Okinawa and was reemployed within 1 year in Washington, D.C. Since Okinawa was not a territory or possession of the United States, reimbursement for the claimed real estate expenses was not authorized.

The United States Claims Court in Mueller v. United States, 16 Cl. Ct. 608 (1989), aff'd, 892 F.2d 1050 (Fed. Cir. 1989), referred to the two decisions cited to above in holding that a civilian employee of the Corps of Engineers was not entitled to reimbursement for real estate expenses incurred at his old duty station in the United States when he transferred to Saudi Arabia. The Claims Court found that the language of the statute and regulations prohibiting such reimbursement, unless both the old and the new duty station are located within the United States, was unambiguous. The court held that, unless Congress expressly stated an intent to the contrary, the language of the statute must be construed according to its plain meaning. 16 Cl. Ct. at 611, 612.

Accordingly, there is no authority for reimbursement and the request for reconsideration is denied.


James F. Hinchman
General Counsel